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Attorneys for Defendants County of Siskiyou; Jeremiah LaRue and Jesus Fernandez, in their official capacities as members of the Siskiyou County Sheriff's Department and in their individual capacities; Brandon Criss, Ed Valenzuela, Michael N. Kobseff, Nancy Ogren, and Ray A. Haupt, in their official capacities as members of the Siskiyou County Board of Supervisors and in their individual capacities; Edward Kiernan, in his official capacity as County Counsel for Siskiyou County and in his individual capacity; and DOES 1-100.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

Dilevon Lo, Jerry Vang, Nathan Thao, Mao Thao, Pao Lee, Antonio Lee, Koua Lee, Nhia Thai Vang, Zeng Lee, Der Lee and Khue Cha

Plaintiffs,

vs.

County of Siskiyou; Jeremiah LaRue and Jesus Fernandez, in their official capacities as members of the Siskiyou County Sheriff's Department and in their individual capacities; and Brandon Criss, Ed Valenzuela, Michael N. Kobseff, Nancy Ogren, and Ray A. Haupt, in their official capacities as members of the Siskiyou County Board of Supervisors and in their individual capacities; Edward Kiernan, in his official capacity as County Counsel for Siskiyou County and in his individual capacity; and DOES 1-100,

Defendants.

Case No.: 2:21-cv-00999-KJM-DMC

**DEFENDANTS' OBJECTIONS TO THE AFFIDAVIT OF EDWARD SZENDREY DATED JUNE 3, 2021 (CM/ECF 4-5)**

Complaint Filed: June 4, 2021  
First Amended Complaint Filed: July 15, 2021

Date: August 6, 2021  
Time: 10:00 AM

**[FEES EXEMPT PURSUANT TO GOVERNMENT CODE SECTION 6103]**

1 Defendants hereby submit their objections to the three affidavits filed to date by Edward  
 2 Szendrey in support of Plaintiffs' original motion for TRO and preliminary injunction and the  
 3 current motion for preliminary injunction.

	Material Objected To:	Grounds for Objection:	Ruling on Objection:
Affidavit of Edward Szendrey June 3, 2021, ¶1	Lacks foundation. Speculation. Inadmissible opinion. Irrelevant.	Sustained: _____ Overruled: _____	
¶8, “The Hmong in America are refugees from southeast Asia. The Hmong comprise the largest ethnic group involved in the U.S. Secret Army during the Vietnam conflict. After the war the communist government of Laos began sending Hmong veterans to reeducation camps. In the mindset of Pathet Lao, those that fought for the United States had put an American nail in their head. To escape from the persecution of the Laos government, these veterans and their families fled to nearby Thailand. Some fled to the jungles of Laos. After several years in refugee camps, they found	Irrelevant. Prejudicial, confusing and misleading (FRE 403) Hearsay. (FRE 801)	Sustained: _____ Overruled: _____	

1	sponsors who brought them to the United States.”		
2	¶9 “Historically, the Hmong have been a people without a country of their own. The desire of many Hmong longing for such a country is relevant to the issue in Siskiyou County.”	Irrelevant. Hearsay. (FRE 801) Prejudicial, confusing and misleading (FRE 403)	Sustained: _____ Overruled: _____
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6	¶11 “I researched the origins and current status of the Shasta Vista subdivision. I toured the subdivision and became acquainted with a number of the residents, the majority of whom are Hmong descent. Currently over 1,000 persons of Hmong descent own and live on lots within the subdivision, at approximately 4,000 persons of Hmong descent live in Siskiyou County.”	Lacks foundation. Hearsay. (FRE 801) Inadmissible opinion. (FRE 701)	Sustained: _____ Overruled: _____
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13	¶12 “In my research I found the Shasta Vista subdivision was first established in the 1960s and 1970s, and consisted of 1,600 lots. To service those lots, water was allowed to be pumped to the subdivision from a well which is now on the property of alfalfa farmer Steven Griset. Ordinance 20-13 specifically targets this well and another well on an adjacent farm known as the Ellison farm. Water from the Ellison farm also services the Shasta Vista subdivision.”	Lacks foundation. Hearsay. (FRE 801) Inadmissible opinion. (FRE 701)	Sustained: _____ Overruled: _____
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21	¶14 “Investigator Dahmen impounded Joling’s truck telling Joling that the property he delivered water to was under investigation, and therefore he was involved in illegal activity. Joling made several attempts to contact Dahmen, who never returned his calls. After several weeks of being deprived of his livelihood, Joling contacted a supervisor at the District Attorney’s office. That day, his truck was released to	Hearsay. (FRE 801) Irrelevant.	Sustained: _____ Overruled: _____
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1	him. He was never cited or charged with any offense.”		
2	¶15  “Other water truck owners/operators advised me they had been pulled over by Investigator Dahmen. On September 25, 2020, I also interviewed water truck owner/operator Vinai Vang who stated that two years earlier, he went to a county office in response to a notice that a travel trailer on his property was not in compliance with county code. At the county office, he was asked to wait. After a half hour, Investigator Dahmen arrived and demanded Vinai Vang surrender his cell phone or he would be arrested. Dahmen questioned him about his water trucks and who he made deliveries to. His cell phone was never returned to him.	Irrelevant.  Hearsay. (FRE 801)  Prejudicial, confusing and misleading (FRE 403)	Sustained: _____  Overruled: _____
13	¶16  “They were protesting the selling of water to the Hmong water haulers who service the Shasta Vista Subdivision. The general sentiment of the demonstrators was the claim wells in the area had gone dry and the reason was the selling of water, primarily by Griset, to water haulers who service the Shasta Vista subdivision. According to some demonstrators the Sheriff and Code Enforcement are overwhelmed and don’t have the manpower to deal with the cannabis grows. Therefore the only way to deal with grows is to shut off the water.”	Irrelevant.  Hearsay. (FRE 801)  Lacks foundation.  Inadmissible opinion. (FRE 701)	Sustained: _____  Overruled: _____
22	¶17  “The protestors demonstrated a bias against the Hmong residents, many of whom had moved to the area from the State of Minnesota. One man had the perception that the federal government was paying Hmong to grow marijuana. Others claimed the Hmong growers are not paying taxes. Demonstrators shouted “Minnesota” at	Hearsay. (FRE 801)	Sustained: _____  Overruled: _____

1 2 3 4	pickup trucks with Minnesota license plates as they left the subdivision. Some stated the Hmong are living in shanties and every winter a couple of people die because of carbon monoxide poisoning trying to heat with propane and wood.”		
5 6 7 8 9 10 11 12 13	¶18  ... “In my interview with her, Marjorie [King] stated the water trucks are essential for fire safety in the subdivision. She said it takes up to thirty minutes for the fire department to respond and that the truck drivers have a communications network which allows them to respond to fires within a few minutes. Many fires have been put out prior to the arrival of the fire department. Marjorie reported the day the ordinance was enacted there was a fire and the water trucks could not respond.”	Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)  Lacks foundation.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
14 15 16 17 18 19	¶19  “Marjorie talked about prejudice against the Hmong. She said the first year was a nightmare.... Matt Rokes, who claimed to be a former gang investigator for the Siskiyou Sheriff’s Office, was on the internet saying the Hmong were a dangerous drug cartel, and would be shooting each other, stealing, promoting teenage prostitution, and eating dogs.”	Irrelevant.  Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
20 21 22 23 24 25	¶20  “Nearly every night, whites were coming in crashing gates, shooting up water tanks, kicking in doors, trashing houses and strewing belongings on the ground. They then took pictures of the damage they caused and posted them on social media with comments about how trashy the Hmong were. Marjorie said hundreds of generators were stolen.”	Lacks foundation.  Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)  Irrelevant.	Sustained: _____  Overruled: _____
26 27 28	¶21  “She stated that at meetings of the association, other property owners would	Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____

1	yell at the Hmong they didn't belong there and needed to get out."	Irrelevant.	
2	¶22  "In the course of my investigation, I researched the issue of domestic water consumption. According to the USGS, average domestic water usage in the United States is 82.3 gallons of water per day with usage in California being greater than the average usage. The Brookings Institute has determined that domestic water use per Capita in California is 124 gallons per day. See The Hamilton Project Report entitled "Domestic Water Use per Capita (in gallons per day) by State, 2005," attached hereto as Exhibit A. Based on that data, the 4,000 people in the Siskiyou County Hmong community would require 329,200 gallons of water a day for domestic use using the nationwide average, or 469,000 gallons of water a day...."	Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)  Irrelevant.  Inadmissible opinion. (FRE 701)	Sustained: _____  Overruled: _____
14	¶23  "Farmer Steve Griset provides private water trucks approximately 325,000 gallons of water per day."	Lacks foundation.  Hearsay. (FRE 801)  Irrelevant.	Sustained: _____  Overruled: _____
17	¶24  "Mr. Griset himself uses 6 million gallons of water per day to water his personal hay fields."	Irrelevant.  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____
20	¶25  "Mr. Griset provides private water trucks approximately 16 million gallons of water per year."	Hearsay. (FRE 801)  Irrelevant.	Sustained: _____  Overruled: _____
23	¶26  "Mr. Enloe is respected by all sides in the issue as the foremost expert on groundwater in Siskiyou County. Mr. Enloe stated the Griset and Ellison wells are on excellent aquifers, each well producing thousands of gallons per minute and lower the water table a very minimal amount. He said at 2.44 acre feet per day,	Lacks foundation.  Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)	Sustained: _____  Overruled: _____

1	the aquifer had ‘not been challenged yet.’”		
2	¶27  “Mr. Enloe described the local issues as an emotional issue not related to the data. Those complaining about water shortage in Big Springs basin are on a different aquifer and are suffering from seasonal drought. According to Mr. Enloe, their shortages are not due to water use by the farmers. He reported the farmers consume the same amount of water each year regardless of (sic) it is sold to others or used on their crops. The water being sold is diverted from crop production. These farmers turn on their pumps in the spring and turn them off in the fall during the time the pumps are on, water is pumped continuously.”	Lacks foundation.  Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
12	¶28  [The verbiage in ¶28 is exactly the same as ¶27.]	Lacks foundation.  Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
17	¶30  “I spoke with local farmer Steven Griset, whose well supplied water to the water trucks. He stated that in 2016 or 2017, District Attorney Investigator Doug Dahmen advised Griset’s girlfriend Linda Rose they were selling water for pot growing. In 2019, Dahmen approached Steve Griset and asked how much he was selling the water for. Griset advised Dahmen he was receiving .01 cents per gallon.”	Irrelevant.  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____
25	¶31  “The current ordinance bans over 100 gallons of water from being transported on certain roads without a special permit.”	Hearsay. (FRE 801)  Misstatement of Ordinance.	Sustained: _____  Overruled: _____

1	¶32 “In the course of my investigation, I have become familiar with the roads surrounding the Shasta Vista Subdivision and the local area.... The ordinance targets roads used by the Hmong residents and excludes other areas of the county.”	Lacks foundation.  Inadmissible opinion. (FRE 701)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
5	¶33 ... “This portion of the ordinance restricts all water being transported to that community.”	Lacks foundation.  Inadmissible opinion. (FRE 701)  Prejudicial, confusing and misleading. (FRE 403)  Misstatement of Ordinance.	Sustained: _____  Overruled: _____
10	¶34 ... “Many residents of Asian descent live in this area.”	Vague.  Lacks foundation.  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
15	¶35 ... “Approximately one-quarter mile north of the intersection of these two roads is a water station on which Hmong water truck owners/operators obtain water.”	Lacks foundation.  Inadmissible opinion. (FRE 701)  Irrelevant.	Sustained: _____  Overruled: _____
20	¶37 “On October 8 2020, Montague resident John Spencer reported he was in the McDowell and Dorris area and observed Hmong water truck drivers getting water directly from pivots. He inquired at a store and was told the Hmong are buying water from the farmers in that area. He was also told there had been no intervention by the authorities.”	Hearsay. (FRE 801)  Irrelevant.	Sustained: _____  Overruled: _____
25	¶38 “Cannabis cultivation in Siskiyou County is not limited to the areas affected by the	Irrelevant.  Lacks foundation.	Sustained: _____  Overruled: _____

1	current ordinance. Nor is cannabis cultivation in Siskiyou County limited to those of Asian descent.”	Inadmissible opinion. (FRE 701)	
2	¶39  The Siskiyou County 2021 Annual Strategic Plan, prepared by Undersheriff Karl G. Houtman, describes the illegal cannabis issues faced by that county, and is attached here as Exhibit B.”	Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
3	¶43  “He estimated upwards of 2,500 illegal marijuana cultivation sites in Siskiyou County, only 80 of which are believed to be in the Shasta Vista subdivision.”	Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
4	¶44  “Undersheriff Houtman’s report included photographs of cultivation sites in the Mount Shasta Vista subdivision. He described the area as a 600 acre parcel which included 80 cultivation sites.”	Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
5	¶51  “Siskiyou County has put a cap on new wells resulting in Hmong being unable to provide for their own water.”	Lacks foundation.  Inadmissible opinion. (FRE 701)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
6	¶52  “The County of Siskiyou is seeking to condemn wells determined to provide water to cannabis growers... Kirk Skierski, Deputy Director of the Planning Division has proposed the Board consider a number of motions addressing the sale of water by farmers and declaring their wells nuisances. He has proposed the hiring of an outside law firm to assist the county in drafting ordinances aimed at capping wells.”	Lacks foundation.  Inadmissible opinion. (FRE 701)  Hearsay. (FRE 801)  Irrelevant.	Sustained: _____  Overruled: _____

1	¶53  “In the course of my investigation I found no determinative effort by the county to work with the residents of the Shasta Vista Subdivision to resolve these issues.”	Inadmissible opinion. (FRE 701)  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
5	¶54  “On May 22, 2021 I interviewed Pao Lee. He stated on May 14, 2021 he was driving his pickup truck carrying a 125-gallon water tank. He stated the tank contained 120 gallons of water he was transporting from a friend’s to his grandfather. The amount of water could be determined by markings on the tank. Antonio Lee was a passenger in his vehicle. Pao Lee stated he traveled on Highway A12 from Highway 97 and turned onto Bonanaza Road in the Montague area. A Sheriff’s deputy that was following him, passed Pao’s vehicle; drove ahead of him; made a U-turn in front of him and blocked his path going forward. A male officer approached his vehicle and went to the back of to observe the water tank. The officer took pictures of the water tank. The officer told him he was carrying too much water and he was going to take his car in for evidence. According to Pao Lee the officer stated: ‘I know you are going to use it for marijuana.’ The officer told him he was seizing the vehicle and they were not letting it out ‘until the case is closed.’ Pao Lee stated his vehicle was driven off by a female deputy.”	Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____
23	¶56  “On May 23, 2021 I interviewed Shasta Vista Subdivision resident Russell Mathis. Mr. Mathis advised me he moved to Shasta Vista in the year 2013. Mr. Mathis stated he does not have a well on his property. Prior to the Hmong moving into the subdivision he purchased water at the Yreka fire station for \$2.00 for 500	Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____

1	gallons. Later the water distribution was transferred to the car wash. After the arrival of the Hmong in the area the water distribution was limited to those living in the Yreka zip code and he could no longer buy water there.”		
4	¶57  “He stated he and other residents who are not cannabis growers are victims of the county ordinance. They too depend on the water trucks for their gardens, animals, and personal consumption.”	Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____
8	¶58  “Mr. Mathis stated it is not a good time to not have water. They are in an extreme drought, a pandemic, and there is extreme fire danger this time of year. In the case of a fire there are only two ways in and two ways out. There are narrow dirt roads. With fire trucks coming in and thousands of people trying to get out they won’t get out. They depend on the water trucks to provide water for fire protection.”	Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)	Sustained: _____  Overruled: _____
15	¶59  “Mr. Mathis stated there is no need to punish those that don’t have a garden or have a garden just to get by. He said it is illegal to collect rainwater. At the same time people outside the area can fill pools. Farmers can run sprinklers all day. He described the taking away water as cruel and racist.”	Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)	Sustained: _____  Overruled: _____
21	¶60  “Russel said he gets along well with his Hmong neighbors. They keep him safe, supply him with water, and if he needs anything they help him.... He is now afraid to go out and fix the roads because he may get in trouble for aiding and abetting the Hmong. He said these people are really good to him.”	Hearsay. (FRE 801)  Irrelevant.	Sustained: _____  Overruled: _____
27	¶61  “Mr. Mathis stated there is a racial bias	Hearsay. (FRE 801)  Inadmissible opinion. (FRE	Sustained: _____  Overruled: _____

1	against the Hmong. They cannot get permits to drill wells. Local gas stations are instructed not to provide fuel to Asians filling gas cans because it would be used for pumps and generators.”	701)  Lacks foundation.  Prejudicial, confusing and misleading. (FRE 403)	
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7	¶62  “He feels everything is aimed at the Asian community. Mr. Mathis stated all Asians are targeted for ‘aiding and abetting’ with no concern if they are growing or not. He said the new Sheriff, Jeremiah LaRue, has come in with ‘guns a blazing’ just to please members of the Board of Supervisors. He described it as racism in the name of drought.”	Hearsay. (FRE 801)  Inadmissible opinion. (FRE 701)  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
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14	¶63  “Mr. Mathis feels he is being penalized and it is not right to punish everybody. He cannot go get water from somewhere and bring it to his home. He said there are a few houses in the subdivision that have wells and share water with the others. That is how they are surviving at the moment.”	Hearsay. (FRE 801)  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
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19	¶64  “On May 22, 2021 A Hmong woman spoke to me under the condition of anonymity. She stated her daughter came home telling her about being confronted at school by a Caucasian student who told her the Hmong had been stealing their water.”	Hearsay. (FRE 801)  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
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25	¶65  “She told me elderly Hmong women were fearful of leaving the Shasta Vista Subdivision because of the Deputies stationed at the entrance.”	Hearsay. (FRE 801)  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
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1	¶66 “She also told me of speaking to a Hmong woman who said she went to the city park in Mt. Shasta to get water in a 5 gallon jug. There was a fence around the water source and the woman was told Asians could not get water because they would use it for growing marijuana. Non-Asian persons were allowed to get water.”	Hearsay. (FRE 801)  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)	Sustained: _____  Overruled: _____
7	¶68 “On May 22, 2021, I spoke with Montague resident Peter Thao. He stated on May 14, 2021 he attended a community meeting which addressed the new water truck ordinance.... Peter Thao stated in his address to the meeting Supervisor Haught stated it is California State law only allows 25 gallons of water per person per day.”	Lacks foundation.  Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____
13	¶69 “On May 23, 2021 I received a phone call from Steven Griset. He observed a Sheriffs deputy tear down three signs that were posted on his property, and put them in the trunk of his vehicle.”	Irrelevant.  Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____
17	¶70 “On May 25, 2021 I spoke with an Hmong resident of the Shasta Vista subdivision. He stated that he prefers to be anonymous. He stated he attempted to obtain a permit to carry 100 gallons or more of water by first calling the City of Yreka. He was then referred to the Siskiyou County Planning Department. He spoke to a woman at the Planning Department and inquired about how he could get a permit. The county employee became upset with the caller and stated: ‘we know what you're going to use that water for.’ The man persisted, stating that the ordinance allowed him to transport up to 100 gallons and he wanted to know where he could get water. The county employee became upset, she replied she would look into it	Prejudicial, confusing and misleading. (FRE 403)  Hearsay. (FRE 801)	Sustained: _____  Overruled: _____

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